

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

Crystal Brown

Plaintiff

v.

Bartlett Operator, LLC,

Defendants

Cause No. _____

Notice of Removal

The Defendant, Bartlett Operator, LLC (hereinafter, “Bartlett”), through counsel, hereby gives notice of the removal of this case, CT-5057-19 from the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, to the United States District Court for the Western District of Tennessee, Western Division. This Notice of Removal is filed pursuant to 28 U.S.C. §§1332, 1441, and 1446.

I. Civil Action Removed

1. On November 18, 2019, Plaintiff Crystal Brown (hereinafter “Plaintiff”), initiated suit against Rainbow Rehabilitation and Healthcare Center, LLC (hereinafter “RRHC”), for damages allegedly resulting from a slip and fall incident which occurred on November 20, 2018, when she was visiting a patient at a healthcare facility located at 8119 Memphis-Arlington Road, Bartlett, Shelby County, Tennessee.

2. The state court action is currently styled *Crystal Brown v. Rainbow Rehabilitation and Healthcare Center, LLC*, and was filed in the Circuit Court of

Tennessee for the Thirtieth Judicial District at Memphis, bearing Civil Action No. CT-5057-19. A copy of the Plaintiff's Complaint is attached hereto as **Exhibit "A."**

3. RRHC is a Limited Liability Company organized and formed under the laws of the State of Delaware and licensed to do business in the State of Tennessee. RRHC is a member-managed company with one member. The lone member of RRHC, Orianna Investment, Inc., has its principal place of business in Nashville, TN. RRHC was served with the Summons and Complaint on December 3, 2019. A copy of the Proof of Service is attached hereto at **Exhibit "B."** RRHC answered the Plaintiff's Complaint on January 2, 2020. A copy of RRHC's Answer and Defenses is attached hereto as **Exhibit "C."** In its Answer and Defenses, RRHC maintained that, at the time of the alleged incident giving rise to the Plaintiff's injuries, the facility located at 8119 Memphis-Arlington Road in Bartlett, Tennessee, was managed by Bartlett Operator, LLC. *See Ex. C., p. 2.*

4. On November 18, 2020, the state court entered an Agreed Order Substituting Parties, wherein RRHC was replaced by Bartlett as the Defendant. A copy of the Agreed Order Substituting Parties is attached hereto as **Exhibit "D."** This substitution of parties created diversity of citizenship that did not exist while RRHC was a Defendant, because its lone member was domiciled in the State of Tennessee. Federal jurisdiction now exists, and removal of this action by Bartlett is timely, as it has been filed within thirty (30) days after receipt by Bartlett of the state court order not more than one year of Plaintiff's commencement of the action.

5. Plaintiff's primary allegations in her Complaint are that she sustained injuries to her right knee, hip, and ankle when she slipped and fell during a visit to

the healthcare facility located at 8119 Memphis-Arlington Road, Bartlett, Shelby County, Tennessee. *See Ex. A.* ¶¶8-10.

II. Diversity of Citizenship Exists

6. According to the Complaint, the Plaintiff is a resident of Stanton, Haywood County, Tennessee. Defendant Bartlett is a Limited Liability Company organized and formed under the laws of the State of Delaware. The four members of Bartlett Operator, LLC are as follows:

- (a) Cody Healthcare S. Corp., which is incorporated under the laws of the State of Delaware, with its principal place of business located in Louisville, Kentucky.
- (b) Robert L. Norcross, II Family Limited Partnership, which is comprised of two members. One of the members, Babas 2013, LLC, is a single member limited liability company whose lone individual member is not domiciled in the State of Tennessee. The other member is the Robert L. Norcross, II Irrevocable Trust. The trustee is an individual who is not domiciled in the State of Tennessee.
- (c) B & Y Healthcare S. Corp., which is incorporated under the laws of the State of Delaware, with its principal place of business located in Louisville, Kentucky. and
- (d) MEHL Holdings, LLC, which is a single-member limited liability company organized and formed under the laws of the State of Delaware, whose lone individual member is not domiciled in the State of Tennessee.

Since none of the above entities have citizenship ties to the State of Tennessee, complete diversity exists in accordance with 28 U.S.C. § 1332.

III. Amount in Controversy Exceeds \$75,000

7. The United States Court of Appeals for the Sixth Circuit places the burden “on a defendant seeking to remove an action to federal court to show by a preponderance of the evidence that the amount in controversy requirement has been met.” *Hayes v. Equitable Energy Res. Co.*, 266 F. 3d 560 (6th Cir. 2001). The Plaintiff’s Complaint unambiguously demands “a judgment not to exceed \$150,000.00[.]” **Ex. A.**, p. 3. As this amount exceeds the federal jurisdictional minimum of \$75,000, prescribed by 28 U.S.C. § 1332; thus, the amount in controversy requirement is clearly met.

IV. Venue

8. Venue of this removed action is proper pursuant to 28 U.S.C. § 1441(a), because this Court is the United State District court for the district and division embracing the place wherein the removed action is pending: the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis.

V. Notice to the State Court

9. Bartlett will promptly file a true and correct copy of this Notice of Removal with the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis. In accordance with 28 U.S.C. § 1446(d), no further proceeding shall be had in the state court unless this matter is remanded.

VI. Notice to the Plaintiff

10. Consistent with 28 U.S.C. § 1446(d) and as indicated in the attached Certificate of Service, the Plaintiff is being provided with a copy of this Notice of Removal.

VII. Copies of State Court Proceedings

11. A true and correct copy of all papers and pleadings on file for Civil Action No. CT-5057-19 from the Circuit Court of Tennessee for the Thirtieth Judicial District at Memphis, is attached hereto as **Exhibit “E.”**

WHEREFORE, PREMISES CONSIDERED, Defendant Bartlett Operator, LLC, respectfully prays that this Court will receive this Notice of Removal and place this cause upon the docket of the Court.

Respectfully submitted, this the 18th day of November, 2020.

s/H.Wesley Williams, III
H. Wesley Williams, III

H. Wesley Williams, III
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above and foregoing Pleading was this day forwarded to all counsel of record by depositing a copy of same via:

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| <input type="checkbox"/> United States | <input type="checkbox"/> Certified Mail |
| Mail | |
| <input type="checkbox"/> Facsimile | <input type="checkbox"/> Hand Delivery |
| <input type="checkbox"/> Email | <input type="checkbox"/> Overnight |
| | Mail |
| <input checked="" type="checkbox"/> ECF System | |

THIS the 18th day of November, 2020.

s/H. Wesley Williams, III
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